

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the reasons that follow.

I. Status of the claims

Claims 6 and 13 were previously cancelled. Claim 5 has been cancelled, without prejudice or disclaimer thereof. Claims 1 and 47 are amended to incorporate therein subject matter from cancelled claim 5. None of these amendments introduce new matter. Claims 9-11, 23, 29 and 44-46 are withdrawn as non-elected subject matter. Upon the identification of allowable subject matter in the composition claims, Applicants will amend the method claims to recite the limitations of the allowed composition claims, and request rejoinder and examination of the method claims.

Following the foregoing amendments, claims 1-5, 7-12 and 14-47 are pending and claims 1-5, 7, 8, 12, 14-22, 26-28, 30-43 and 47 are under examination.

II. Rejections under 35 U.S.C. § 103(a)

Claims 1-5, 7, 8, 12, 14-22, 26-28, 30-43 and 47 are rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over US Patent No. 4,882,157 to Yang in view of US Patent No. 6,316,029 to Jain et al., Office Action at pages 2-3. Applicants respectfully traverse this ground for rejection.

Applicants have amended claim 1 to recite that the water content of the claimed composition must be greater than 30% and less than about 92%. This claim limitation is in direct contrast to the teaching of Yang, which requires a moisture content of 1 to about 30%. Specifically, Yang expressly warns that in its dosage form the:

the moisture content . . . must be maintained within the range of about 1 to about 30% by weight. Outside these ranges, the delivery system fails to be operable. Too low a moisture content results in a brittle and crumbly product which is neither palatable or effective in masking activities. At higher limits of moisture, microorganism growth becomes a problem and the texture loses its chewiness.

Yang at Col. 6, lines 60-68. Thus, not only are Applicants' claimed water content ranges outside those of Yang, Yang expressly teaches that Applicants' claimed ranges are inoperable. Accordingly, Yang cannot render obvious Applicants' claimed invention. Accordingly, withdrawal of this ground for rejection is respectfully requested.

CONCLUSION

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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